

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

INNOVATIVE SOLUTIONS  
INTERNATIONAL, INC.,

Plaintiff,

v.

HOULIHAN TRADING CO. INC., *et al.*,

Defendants.

CASE NO. C22-0296-JCC

ORDER

This matter comes before the Court on Defendant Pilgrim’s Pride Corporation’s (“Pilgrim’s”) motion for reconsideration (Dkt. No. 250) of this Court’s order granting in part and denying in part Plaintiff Innovative Solutions International, Inc.’s (“Innovative”) motion for summary judgment (Dkt. No. 247). Having thoroughly considered the relevant record, the Court hereby GRANTS in part and DENIES in part the reconsideration motion (Dkt. No. 250) for the reasons explained herein.

Motions for reconsideration are generally disfavored. LCR 7(h)(1). Reconsideration is only appropriate where there is “manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to [the Court’s] attention earlier with reasonable diligence.” *Id.* “A motion for reconsideration should not be used to ask the court to rethink what the court had already thought through—rightly or wrongly.” *Ma v. Univ. of S.*

1 *California*, 2019 WL 1239269, slip op. at 1 (W.D. Wash. 2019).

2 Here, Defendant argues the Court committed manifest error in three ways.

3 First, Defendant argues that the Court erred in granting *partial* summary judgment to  
4 Innovative on its negligent misrepresentation claim, even though the Court determined that  
5 “Innovative failed to establish the first prong of its *prima facie* case, specifically, that Pilgrim’s  
6 supplied false information.” (See Dkt. No. 250 citing Dkt. No. 247 at 7–10.) Defendant argues  
7 that Innovative’s *failure* to establish the first element of its negligent misrepresentation claim  
8 precluded the Court from finding in Pilgrim’s favor on an element-by-element basis. (*Id.*) This  
9 reasoning, however, betrays Pilgrim’s fundamental misunderstanding of the Court’s order. As  
10 the Court noted, “while some evidence cited suggests that “breast trim” is understood to be  
11 boneless, other evidence suggests that breast trim may include bones. . . [U]ltimately, a  
12 reasonable jury could conclude one way or the other.” (See Dkt. No. 247 at 6.) In other words,  
13 Innovative did not *fail* to support its burden at summary judgment but, rather, as indicated in the  
14 Court’s order, a genuine issue of material fact existed as to this element, thereby precluding  
15 summary judgment. The Court went on to hold that, in the face of Innovative’s properly  
16 supported claim, it would proceed on an element-by-element basis. (*Id.* at 7) The Court did just  
17 that, granting Innovative’s motion for summary judgment with respect to the second, third, and  
18 fourth prongs of its negligent misrepresentation claim. (*Id.*) As to the first prong—which  
19 Innovative sufficiently supported—the Court found it apt for resolution by a trier of fact. Indeed,  
20 an essential characteristic of our judicial system is the manner in which it distributes trial  
21 functions between judge and jury and, under the influence—if not the command—of the Seventh  
22 Amendment, assigns the decisions of disputed questions of fact to the jury. See *Byrd v. Blue*  
23 *Ridge Rural Elec. Co-op., Inc.*, 356 U.S. 525, 537 (1958).

24 Second, Defendant argues the Court committed manifest error by not considering one  
25 piece of ostensibly relevant evidence when granting summary judgment to Innovative on the  
26 third element of its negligent misrepresentation claim. (Dkt. No. 250 at 6.) According to the

1 Court's order, Innovative provided three pieces of evidence in moving for summary judgment  
2 which supported the inference that Defendant negligently communicated information. (*See* Dkt.  
3 No. 247 at 8–9.) It consisted of a “Product Fact Sheet” and testimony of Pilgrim’s senior and  
4 mid-level employees. (*Id.* at 9.) That un rebutted evidence was sufficient to find that Innovative  
5 satisfied its burden with respect to the third prong of its negligent misrepresentation claim. (*Id.*)  
6 The question is whether Defendant’s evidence offered in opposition to summary judgment is of  
7 any consequence to that determination. The Court finds that it is not. Defendant merely sets forth  
8 a declaration stipulating that “[o]ther than Mr. Griffin’s representation . . . no other information  
9 attributable to Pilgrim’s. . . made any mention of allowable bone content whatsoever.” (*See* Dkt.  
10 Nos. 184 at 16–17, 250 at 9–11.) (emphasis added). The ultimate question is whether a  
11 reasonable jury could credit this piece of evidence as supporting Defendant’s argument. But the  
12 evidence proffered is unable to show, let alone create an inference, that Defendant Pilgrim’s did  
13 not negligently represent information to Innovative. Accordingly, Defendant’s motion for  
14 reconsideration is denied as to this issue.

15 Third, Defendant rightly argues the Court erred by inadvertently indicating that it was  
16 granting summary judgment to Innovative on the first prong of its CPA claim. In its order, the  
17 Court stated that “the first element regarding the existence of an unfair or deceptive act is an  
18 issue for a trier of fact to decide.” (Dkt. No. 247 at 12.) And yet, the Court indicates shortly  
19 thereafter that it was granting Innovative’s motion as to the first and third prongs. This was an  
20 error for which the Court now issues this clarification. While the Court denied Pilgrim’s’ motion  
21 for summary judgment as to this issue (Dkt. No. 162), it ought to have granted Innovative’s  
22 motion (Dkt. No. 154) only with respect to the third prong of its CPA claim. Meaning, the first  
23 prong remains that for the finder of fact to determine.

24 For the foregoing reasons, Defendant Pilgrim’s motion for reconsideration (Dkt. No. 250)  
25 is GRANTED in part and DENIED in part consistent with the reasoning herein.

DATED this 29th day of February 2024

A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE